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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

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12 PATRICK PIERCE,
13 Plaintiff,
14 v.
15 WELLS FARGO BANK,
and DOES 1 through 20,
16 Defendants.

CASE NO. C08-01554 JF (HRL)

**PIERCE'S EVIDENTIAL
OBJECTIONS TO, AND
MOTION TO STRIKE
PORTIONS OF, DECLARATION
OF GREG J. RICHARDSON,
AND STATEMENTS IN WELLS
FARGO'S MOVING PAPERS**

Date: June 27, 2008
Time: 9.00 a.m.
Place: Courtroom 3, 5th Floor
Judge: Hon. Jeremy Fogel

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20 Plaintiff Patrick Pierce ("Pierce") hereby objects to the admissibility of the following
21 portions of the declaration of Greg J. Richardson dated March 27, 2008 (the "Richardson
22 Declaration"):

23 Objectionable Content

Grounds for Objection

24 Richardson Declaration, Paragraph 2: Allegation
that Exhibit 1 is a true copy the Greater Bay
25 Bancorp Change in Control Plan ("CIC Plan").

Lack of personal knowledge, and hearsay
(Federal Rules of Evidence 602 and 802): There
is no foundation laid upon which Mr.
Richardson, as outside counsel for defendant,
would have personal knowledge of the
authenticity of defendant's internal corporate
records. Further, the document is not made
admissible as a hearsay exception under Rule
803(6), because the referenced document is not
a memorandum, report, etc. of acts, events,

<u>Objectionable Content</u>	<u>Grounds for Objection</u>
	conditions, etc. that was made at or near the time of the acts, nor does it meet the other requirements of the exception. Indeed, it is counter-intuitive to suggest that an outside law firm might regularly maintain defendant Wells Fargo Bank's business records as part of the law firm's own records.
Richardson Declaration, Paragraph 3: Allegation that Exhibit 1 (CIC Plan) is a true copy of a record maintained by the Orrick law firm in the regular course of business.	As for paragraph 2, above.
Exhibit 1 to Richardson Declaration (CIC Plan).	As for paragraph 2, above.

Based on the foregoing, and also on the independent grounds indicated below, Pierce moves to strike the following allegations of defendant's Motion to Dismiss Pursuant To FRCP 12(b)(6) (the "Motion"):

<u>Objectionable Content</u>	<u>Grounds for Objection</u>
Motion, 2:2-7: Statements with respect to alleged terms of CIC Plan.	Statements purport to recite facts relating to inadmissible exhibit to Richardson Declaration.
Motion, 2:22-10: Statements with respect to alleged terms of CIC Plan.	Statements purport to recite facts relating to inadmissible exhibit to Richardson Declaration.
Motion, 2:22-3:3: Statements with respect to alleged terms of CIC Plan.	Statements purport to recite facts relating to inadmissible exhibit to Richardson Declaration.
Motion, 3:9-10, and footnote 4: Statements with respect to alleged identity of employer.	Statements unsupported by any declaration or other admissible evidence.
Motion, 3:10-4:9: Statements with respect to coverage and alleged terms of CIC Plan.	Statements purport to recite facts relating to inadmissible exhibit to Richardson Declaration.
Motion, 3:24-28, and footnotes 5 and 6: Statements with respect to alleged contents of CIC Plan.	Statements purport to recite facts relating to inadmissible exhibit to Richardson Declaration.
Motion, 4:22-24, and 27-28: Statements with respect to whether Pierce's position is a Comparable Position.	Statements unsupported by any declaration or other admissible evidence.
Motion, 5:5-13: Statements with respect to alleged terms of CIC Plan.	Statements purport to recite facts relating to inadmissible exhibit to Richardson Declaration.
Motion, 5:20-25: Statements with respect to alleged terms of CIC Plan.	Statements purport to recite facts relating to inadmissible exhibit to Richardson Declaration.

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Objectionable Content

Grounds for Objection

Motion, 5:26-28: "Representation" by defendant contains statements with respect to alleged exhaustion of remedies under CIC Plan.

Statements purport to recite facts that are unsupported by any evidence.

Motion, 7:21-22: Statements with respect to alleged terms of CIC Plan.

Statements purport to recite facts relating to inadmissible exhibit to Richardson Declaration.

Motion, 8:7-10: Statements with respect to alleged terms of CIC Plan.

Statements purport to recite facts relating to inadmissible exhibit to Richardson Declaration.

Motion, 9:11-19: Statements with respect to alleged terms of CIC Plan.

Statements purport to recite facts relating to inadmissible exhibit to Richardson Declaration.

Motion, 10:12-18: Statements with respect to alleged terms of CIC Plan.

Statements purport to recite facts relating to inadmissible exhibit to Richardson Declaration.

In addition, Pierce objects to the admissibility of the Greater Bay Bancorp Change in Control Plan on the grounds that it constitutes extrinsic evidence inadmissible on a motion under Rule 12(b)(6).

Pierce accordingly requests that the objectionable content be ordered stricken from the record.

Dated: June 6, 2008

CARR & FERRELL LLP



By: _____

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CHRISTINE S. WATSON

Attorneys for Plaintiff
PATRICK PIERCE